Government of Kerala
1983

Reg. No. KL/TV(N)

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Monday, 12th December 1983 / 21st Agrahayana 1905 No. 1500

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REPORT OF THE SUBJECT COMMITTEE

ON

THE LEGISLATIVE ASSEMBLY (REMOVAL OF DISQUALIFICATIONS) AMENDMENT BILL, 1983

AND

THE BILL AS REPORTED BY THE SUBJECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5392/MC.

THE LEGISLATIVE ASSEMBLY (REMOVAL OF DISQUALIFICATIONS) AMENDMENT BILL, 1983

(Report of the Subject Committee)

Subject Committee X—Home Affairs to which the Legislative Assembly (Removal of Disqualifications) Amendment Bill, 1983 was referred, considered the Bill clause by clause and now submits this, its report with the Bill as reported by the Committee annexed thereto.

2. The Legislative Assembly (Removal of Disqualifications) Amendment Bill, 1983 was published as a Gazette Extraordinary dated November 17, 1983. The Bill was introduced in the Assembly on December 5, 1983 and was referred to the Subject Committee on the same day.

3. The Committee considered the Bill clause by clause at its meeting held on December 6, 1983.

4. The Committee recommended to adopt the Bill with the following modification:—

"In sub-caluse 2, under short title, for the words and figures "the 11th day of August, 1983", the words and figures "the 1st day of November, 1982" shall be substituted."

VAYALAR RAVI,

Chairman,

Subject Committee X.

THE LEGISLATIVE ASSEMBLY (REMOVAL OF DISQUALIFICATIONS) AMENDMENT BILL, 1983

(As reported by the Subject Committee)

(Words underlined indicate the amendments suggested by the Committee)

A

BILL

further to amend the Legislative Assembly (Removal of Disqualifications) Act, 1951.

Preamble.—WHEREAS it is expedient further to amend the Legislative Assembly (Removal of Disqualifications) Act, 1951, for the purpose hereinafter appearing;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title.*—(1) This Act may be called the Legislative Assembly (Removal of Disqualifications) Amendment Act, 1983.

(2) It shall be deemed to have come into force on the 1st day of November, 1982.

2. *Amendment of section* 2.—In section 2 of the Legislative Assembly (Removal of Disqualifications) Act, 1951 (XV of 1951) (hereinafter referred to as the principal Act), in clause (ii) of sub-section (2) after the words "the Chairman", the words "or Vice-Chairman" shall be inserted.

3. *Repeal and saving.*—(1) The Legislative Assembly (Removal of Disqualifications) Amendment Ordinance, 1983 (22 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Secretariat of the Kerala Legislature,
Trivandrum,
December 12, 1983.

DR. R. PRASANNAN,
Secretary.

Government of Kerala
1983

Reg. No. KL/IV(N)/1

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Monday, 12th December 1983 / 21st Agrahayana 1905 [No. 1501

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PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5393/MC

KERALA PUBLIC SERVICES (AMENDMENT) BILL, 1983

(Report of the Subject Committee)

Subject Committee X—Home Affairs to which the Kerala Public Services (Amendment) Bill, 1983 was referred, considered the Bill clause by clause and now submits this, its report with the Bill as reported by the Committee annexed thereto.

2. The Kerala Public Services (Amendment) Bill, 1983 was published as a Gazette Extraordinary dated November 22, 1983. The Bill was introduced in the Assembly on November 30, 1983 and was referred to the Subject Committee on the same day.

3. The Committee considered the Bill clause by clause at its meeting held on December 6, 1983.

4. The Committee recommended to adopt the Bill without any change.

VAYALAR RAVI,

Chairman,

Subject Committee X.

THE KERALA PUBLIC SERVICES (AMENDMENT) BILL, 1983

(As reported by the Subject Committee)

A

BILL

further to amend the Kerala Public Services Act, 1968.

Preamble.—WHEREAS it is expedient further to amend the Kerala Public Services Act, 1968, for the purpose hereinafter appearing;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Public Services (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on the 1st day of October, 1981.

2. *Insertion of new section* 4.— In the Kerala Public Services Act, 1968 (19 of 1968) (hereinafter referred to as the principal Act), after section 3, the following section shall be inserted, namely:—

"4. *Act and rules thereunder to apply to certain persons notwithstanding anything in the Industrial Disputes Act or any other law.*—Notwithstanding anything contained in Chapter VA or in any other provision of the Industrial Dispute Act, 1947 (Central Act 14 of 1947) or in any other law for the time being in force, or in any judgement, decree or order of any court, the appointment of any person to any public service or post in connection with the affairs of the State of Kerala and the conditions of service (including termination of service) of any person appointed to any such service or post shall be governed by the provisions of this Act and the rules made or deemed to have been made thereunder.".

3. *Repeal and saving.*—(1) The Kerala Public Services (Amendment) Ordinance, 1983 (36 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Secretariat of the Kerala
Legislature, Trivandrum,
December 12, 1983.

DR. R. PRASANNAN,
Secretary.

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1983

Reg. No. KL/TV(N)

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Monday, 12th December 1983 / 21st Agrahayana 1905 [No. 1503

GOVERNMENT OF KERALA

Labour (B) Department

NOTIFICATION

No. G.O. (Rt.) 1408/83/LBR. *Dated, Trivandrum, 7th December,* 1983.

S. R. O. No. 1746/83.—In exercise of the powers conferred by sub-sections (1) and (6) of section 8 of the Factories Act, 1948 (Central Act 63 of 1948), the Government of Kerala hereby make the following amendments to Notification G.O. (Rt). No. 1335/81/LBR dated, the 24th October, 1981, published as S.R.O. No. 1214/81, in the Kerala Gazette Extraordinary No. 835 dated the 24th October, 1981, namely:—

AMENDMENTS

In the schedule to the said Notification,—

(1) under the heading "Inspectors", for the existing entries under column (4) against Serial No. 4, the following entries shall be substituted, namely:—

"The Pathanamthitta revenue district, the Kunnathoor and Pathanapuram taluks of the Quilon revenue district, and the Chengannur and Mavelikkara taluks of the Alleppey revenue district.";

33/5408/MC.

(2) under the heading "Additional Inspectors", for the existing entries under column (4) against Serial No. 4, the entries shall be substituted, namely:—

> "The Pathanamthitta revenue district, the Kunnathoor and Pathanapuram taluks of the Quilon Revenue district and the Ghengannur and Mavelikkara taluks of the Alleppey revenue district."

By order of the Governor,

U. Mahabala Rao,

Commissioner and Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to explain its general purport).

As per G.O. (P) No. 652/83/RD dated 9-6-1983, Government have notified the taluks and divisional boundaries of the Pathanamthitta revenue district for the administrative convenience. The above district comprises the Taluks of Kozhencherry, Ranni, Adoor, Thiruvalla and Mallapilly. The changes have to be incorporated in the notification fixing the jurisdiction of Factory Inspectors of Factories. This amendment is intended to achieve the above object.

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Government of Kerala
1983

Reg. No. KL/TV(N)/12

KERALA GAZETTE

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PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Monday, 12th December 1983 / 21st Agrahayana 1905 [No. 1498

GOVERNOR'S SECRETARIAT

NOTIFICATION

No. GS3-6209/83 *12th December, 1983.*

At the request of the Secretary to Government, Higher Education and on the recommendation of the Pro-Vice-Chancellor, Gandhiji University who is in charge of the Vice-Chancellor, the Chancellor of the University is pleased to order that Dr. N. Padmanabha Iyer, Professor in Civil Engineering, College of Engineering, Trivandrum, appointed as the First Controller of Examinations of the said University on deputation for a period of two years as per notification of even number dated 5-11-1983, is reverted to his parent department with immediate effect.

By order of the Governor/Chancellor,

N. KRISHNAN NAIR,

Secretary to Governor/Chancellor.

Raj Bhavan,
Trivandrum.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5386/MC.

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Monday, 12th December 1983 / 21st Agrahayana 1905 [No. 1502

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 10833/LA-5/83. *Dated, Trivandrum, 12th December*, 1983.

The Kerala Appropriation (No. 11) Bill, 1983 together with the Statement of Objects and Reasons, is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5395/MC.

Seventh Kerala Legislative Assembly

Bill No. 90

THE KERALA APPROPRIATION (No. 11) BILL, 1983

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Kerala for the services of the financial year 1983-84.

Preamble.—WHEREAS it is necessary to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Kerala for the services of the financial year 1983-84;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Appropriation (No. 11) Act, 1983.

2. *Issue of Rs.* 54,80,14,200 *from and out of the Consolidated Fund of the State of Kerala for the financial year* 1983-84.—From and out of the Consolidated Fund of the State of Kerala, there may be paid and applied sums not exceeding those specified in column (3) of the Schedule amounting in the aggregate to the sum of fifty-four crores, eighty lakhs, fourteen thousand and two hundred rupees towards defraying the several charges which will come in course of payment during the financial year 1983-84, in respect of the services and purposes specified in column (2) of the Schedule.

3. *Appropriation.*—The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Kerala by this Act shall be appropriated for the services and purposes specified in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

(1)	(2)		(3)		
			Sums not exceeding		
Demand Number	*Services and Purposes*		*Voted by the Legislative Assembly* Rs.	*Charged on the Consolidated Fund* Rs.	*Total* Rs.
II	Heads of States, Ministers and Headquarters Staff	Revenue	..	17,15,000	17,15,000
III	Administration of Justice	Revenue	400	..	400
VIII	Excise	Revenue	200	..	200
IX	Taxes on Vehicles	Revenue	1,50,000	..	1,50,000
XI	District Administration and Miscellaneous	Revenue	1,10,100	20,000	1,30,100
XII	Police	Revenue	200	..	200
XIV	Stationery and Printing and Other Administrative Services	Revenue	1,00,000	..	1,00,000
XV	Public Works	Revenue	25,00,100	..	25,00,100
		Capital	4,06,000	4,50,000	8,56,000

XVI	Pensions and Miscellaneous	Revenue	20,00,00,000	..	20,00,00,000
XVII	Education, Art and Culture	Revenue	4,96,100	..	4,96,100
XVIII	Medical	Revenue	100	..	100
XXI	Public Health Engineering	Revenue	12,89,500	..	12,89,500
		Capital	2,23,48,500	..	2,23,48,500
XXVI	Social Welfare including Harijan Welfare	Revenue	4,37,75,100	..	4,37,75,100
		Capital	59,99,900	..	59,99,900
XXVIII	Co-operation	Revenue	5,96,50,300	..	5,96,50,300
		Capital	48,50,000	..	48,50,000
XXX	Agriculture	Revenue	1,22,65,100	..	1,22,65,100
		Capital	..	63,500	63,500
XXXI	Food	Revenue	5,07,600	..	5,07,600
XXXII	Animal Husbandry	Revenue	..	27,500	27,500
XXXIII	Dairy	Revenue	15,00,000	..	15,00,000
XXXV	Forest	Revenue	..	8,60,500	8,60,500
XXXVII	Community Development	Revenue	17,37,42,100	..	17,37,42,100
XXXVIII	Industries	Revenue	..	16,38,000	16,38,000
		Capital	10,43,500	..	10,43,500

(1)	(2)		(3)		
			Sums not exceeding		
Demand Number	*Services and Purposes*		*Voted by the Legislative Assembly* Rs.	*Charged on the Consolidated Fund* Rs.	*Total* Rs.
XXXIX	Irrigation	Capital	200	4,500	4,700
XLI	Ports	Capital	25,00,000	..	25,00,000
XLII	Transport	Revenue	100	..	100
		Capital	1,00,00,000	..	1,00,00,000
XLIII	Tourism	Revenue	100	..	100
	Total	..	54,32,35,200	47,79,000	54,80,14,200

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 (1) of the Constitution of India, read with article 205 thereof, to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Kerala required to meet the supplementary expenditure charged on the Consolidated Fund of the State of Kerala and the grants made by the Legislative Assembly for the expenditure of the Government of Kerala for the financial year 1983-84.

K. M. MANI

Reg. No. KL/TV(N)/1

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Monday, 12th December 1983 / 21st Agrahayana 1905 [No. 1499

CONTENTS

REPORT OF THE SELECT COMMITTEE

ON

THE KERALA PUBLIC MEN (PREVENTION OF CORRUPTION) BILL, 1983

AND

THE BILL AS REPORTED BY THE SELECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5391/MC.

THE KERALA PUBLIC MEN (PREVENTION OF CORRUPTION) BILL, 1983

(Report of the Select Committee)

The Select Committee to which the Kerala Public Men (Prevention of Corruption) Bill, 1983 was referred, have considered the Bill clause by clause and now submit this their Report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated July 30, 1983. The Bill was introduced in the Assembly on August 4, 1983 and the motion for reference to Select Committee was adopted on the same day.

3. The Committee held 12 sittings of which two sittings at Ernakulam and one sitting each at Trivandrum and Calicut were entirely devoted for the recording of evidence from representatives of organisations, associations and persons interested in the provisions of the Bill. The changes proposed by the Committee and the reasons therefor are set out in the following paragraphs:

4. *Clause* 2.—*Sub-clause (i)* [*Original sub-clause* (*h*)].—The Committee consider that a member or the Chairman of the Guruvayoor Devaswom Managing Committee or a member of the Kerala Wakf Board should also be included within the scope of the definition of the term 'publicmen.'

Item (iii) of the sub-clause has been modified for the purpose.

Item (iv) of the sub-clause *inter alia* empowers the Government to bring in the Chairman or the Vice-Chairman of any Corporation or Board as the Government may, having regard to the financial interest of the Government in such Corporation or Board, by notification in the Gazette, from time to time specify within the scope of the definition of the term 'publicmen'. The Committee feel that the Chairman or the Vice-Chairman of all Corporations or Boards, whether statutory or not, or societies registered in the State under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 or under the Societies Registration Act, 1860, and owned or controlled by the Government should be specifically brought within the definition of the term 'publicmen', instead of leaving them to be specified by the Government by notification.

Item (iv) of the sub-clause has been suitably modified for the above purpose.

33/5391/MC.

According to item (vii) of the sub-clause, the President, Secretary or Treasurer or any other office bearer of a registered trade union of the employees of any Board, authority, body, corporation, company or society referred to in sub-clauses (iii) and (iv) and recognised by such Board, authority, body, corporation, company or society, as the case may be, fall within the definition of the term 'publicman.' The Committee are of the view that the President, Secretary, Treasurer or any other office bearer of all registered trade unions functioning in the State should come within the definition of the term 'publicman'.

Item (vii) of the sub-clause has been modified for the above purpose.

5. *Clause 3.—sub-clause* (1).—The Committee consider that any wilful act in contravention of any provision of any law for the time being in force should also be brought within the scope of the definition of the term 'corruption'.

The sub-clause has been suitably modified for the above purpose.

6. *Clause 4.—sub-clauses* (1), (2) *and* (3) [*Original sub-clauses* (1) and (2)].—The Committee are of the view that instead of providing for the appointment of three persons to be the Commissioners for exercising the powers and performing the functions under the Act, it would be more appropriate to provide for the constitution of a Commission consisting of three members (Commissioners).

The sub-clauses have been suitably amended for the above purpose.

Sub-clause (6) [*Original sub-clause* (5)].—According to item (c) of the sub-clause a person appointed as a Commissioner shall if he is connected with any political party, sever his connection with that party. The Committee feel that in view of the provision in sub-clause (7)—original sub-clause (6) as modified by the Committee, the provision in item (c) of sub-clause (6) is not necessary. The Committee, however, feel that a person appointed as Commissioner if he is connected with any organisation the activities of which are likely to result in communal disharmony or hatred, should sever his connection with that organisation.

Item (c) of the sub-clause has been substituted for the above purpose.

Sub-clause (7) [*Original sub-clause* (6)].—The sub-clause seeks to provide that a person who has been an active member of a political party for a period of five years immediately preceding—

(a) the commencement of the Act, in the case of first appointment after such commencement; or (b) the date on which the vacancy has arisen in the case of any subsequent appointment, shall not be eligible to be appointed as a Commissioner. The Committee consider that the expression 'active member' is not clear and that a person who has been a member of a political

party whether active or not at any time during the period of five years immediately preceding—

(a) the commencement of the Act, in the case of first appointment after such commencement; or

(b) the date on which the vacancy has arisen, in the case of any subsequent appointment,.

should be ineligible to be appointed as Commissioner.

The sub-clause has been modified for the above purpose.

Original Sub-clause (7).—The sub-clause seeks to provide that no person above the age of 65 years shall be appointed as Commissioner. The Committee consider that the sub-clause is not necessary in view of the modification made by the Committee to sub-clause (1) of clause 5.

The sub-clause has, therefore, been omitted by the Committee.

7. *Clause* 5.—*Sub-clause* (1).—The Committee are of the view that a person appointed as a Commissioner should cease to hold the office on attaining the age of 70 years.

The sub-clause has been suitably modified for the above purpose.

Sub-clause (2).—The Committee feel that it should be made clear that a person on ceasing to hold the office of Commissioner for a term, should be ineligible for reappointment as Commissioner.

The sub-clause has been suitably amended for the purpose.

8. *Clause* 7.—*Sub-clause* (4).—The Committee are of the view that the word "so far as may be" appearing in the sub-clause may result in the denial of reservation in appointments to be made to the establishment of the Commission.

The Committee therefore consider that the words must be substituted by the words *mutatis mutandis*.

The sub-caluse has been modified accordingly.

New Sub-clause (7).—The Committee are of the view that the officers and staff including the investigating agencies referred to in sub-clause (5) should be under the administrative control of the Commission. A new sub-clause (7) has been inserted by the Committee to make specific provision for the purpose.

9. *Clause* 8.—*Sub-clause* (2).—The Committee are of the view that the Sum to be deposited along with a petition under sub-clause (1) should be

reduced to Rs. 500 and that no amount need be deposited along with a petition if the petition is presented jointly by not less than 10 members of the Legislative Assembly.

The sub-clause has been modified for the above purposes.

New sub-clauses (4) *and* (5).—The Committee are of the view that as the preliminary investigation of a petition under the clause containing an allegation of corruption against a publicman is to be conducted in private and in camera, specific provision should be made prohibiting the person who presents the petition or any other person from publishing or causing to be published the contents of the petition and making any such publication punishable. The Committee have, therefore, inserted new sub-clauses (4) and (5) for the above purpose.

10. *Clause* 9.—*Sub-clause* (a).—According to the sub-clause the Commissioners shall not conduct any investigation under the Act if the allegation of corruption mentioned in the petition has been the subject matter of another investigation or inquiry or other proceedings by or before a Commission of Enquiry appointed under the Commissions of Enquiry Act, 1952 or any Court or Judge whether sitting or retired. The Committee are of the view that the words "or any Court or Judge whether sitting or retired" should be substituted by the words "or any other Commission appointed by the Government".

The clause has been modified by the Committee accordingly.

Sub-clause (d).—The Committee are of the view that the period for presenting a petition under clause 8 should be upto 24 months from the date on which the corruption is alleged to have taken place.

The sub-clause has been modified accordingly.

Sub-clause (e).—The Committee are of the view that in respect of corruption alleged to have taken place within a period of 5 years immediately preceding the commencement of the Act, the period for presentation of a petition should be upto 24 months from the date on which the corruption is alleged to have taken place or 6 months from such commencement whichever is later.

The sub-clause has been suitably modified for the above purpose.

11. *Original clause* 10.—This clause seeks to empower the Government to refer any allegation of corruption against any publicman which is or has been brought to the notice of the Government to the Commissioners for investigation if they are satisfied that it is necessary in the public interest that the allegation of corruption should be investigated under the Act. The Committee feel that the clause is not necessary and should therefore be omitted.

The clause has, therefore, been omitted by the Committee.

12. *Original clause* 11.—Consequent on the omission of original clause 10, clause 11 is not necessary to be retained.

The Clause has, therefore, been omitted by the Committee.

13. *Clause* 10 (*Original clause* 12). *Sub-clause* (4).—The Committee consider that the procedure for conducting a preliminary investigation under the clause shall be such as may be prescribed by the Governor in consultation with the Commission.

The Clause has been suitably amended for the purpose.

14. *Clause* 11 (*Original clause* 13)—*Sub-clause* (4).—The Committee are of the view that detailed investigation shall be held in public and need not be in private and in camera.

The sub-clause has, therefore, been omitted by the Committee.

15. *Clause* 12.—*Original clause* 14—*Sub-clause* (2).—The Committee are of the view that according to the existing wording of the sub-clause, the detailed investigation can be prolonged beyond one year.

The Committee has therefore omitted the words "as far as possible" appearing in the sub-clause.

16. *Clause* 17 (*Original clause* 19).—*Sub-clause* (2).—The Committee are of the view that the words "or the investigation or detection of crime" appearing in the sub-clause are not necessary to be retained.

The words have, therefore, been omitted by the Committee.

17. *Clause* 20 (*Original clause* (22).—*Sub-clause* (1).—The sub-clause seeks to empower the Commissioners to try any person who knowingly gives false evidence in any proceedings before the Commissioners summarily. The Committee are of the view that the minimum term of imprisonment for such offences should be reduced from six months to three months and the maximum term of imprisonment should be reduced from three years to one year.

The clause has been modified for the above purposes.

18. *Clause* 23 (*Original clause* 25).—The clause seeks to provide for the disposal of the sum deposited by a petitioner under clause 8. The Committee are of the view that discretion should be given to the Commission to make at

the end of the investigation such orders in respect of the sum deposited by any petitioner under section 8 including orders for the forfeiture of the whole or any portion of such sum as having regard to the circumstances of the case it thinks fit.

The clause has been modified by the Committee accordingly.

19. All other changes made by the Committee are either verbal or consequential.

VAYALAR RAVI,
Chairman of the Select Committee.

MINUTES OF DISSENT

The allegations of corruption against Public men have been dealt with in the State under the Prevention of Curruption Act (Centre). So far there is no separate State law, though several attempts have been made in the last fifteen years to get the legislation on this subject passed by the Legislature. In the 1970s an executive order was passed by the Government to institute a preliminary enquiry on allegations if the petitioner deposits Rs. 500 with the Government. In spite of all these actions, corruption in public life is on the increase and measures are to be taken to infuse confidence in the people that corruption will be effectively checked.

2. Viewed in this context, with a deep sense of disappointment, we regret to note that this Bill and the Select Committee Report on it falls short of the purpose for which it is intended and the aims are being defeated by inadequate and biased provisions.

3. The definition of corruption is incomplete and inadequate. This is too narrow compared to the definition in the P.C. Act and also the accepted definition in the Government Order for preliminary enquiry and notification. It must include, favouritism, nepotism and misconduct. So also *Clause* 3 is to be modified so as to include acceptance of gratification "directly or indirectly" as corruption.

4. The defintion of Public man is to be widened so as to include managers and educational agencies who run educational institutions in the State. It is a fact that these agencies and managers, who are running these institutions by public and State funds, are sources of curruption. All the political parties and organisations and persons who gave evidence before the Committee were unanimous in their opinion that these persons and agencies are also to be included in the definition. In spite of it, the report does not include them. So also managing directors of Public Companies and Public Corporations drawn from among public men are to be included.

5. The qualification and method of appointment of Commissioners also require change. The Commissioners must be appointed either from a panel drawn by and forwarded by the Chief Justice of Kerala, or in the alternative, Governor is to consult the Chief Justice of High Court, the Chief Minister and the Leader of the Opposition and if there is no Opposition Leader, the commonly agreed leader of the opposition groups, in the appointment of Commissions. The Commission members are to be from the Judiciary alone and from the Judges of High Court. No retired persons are to be appointed as Commissioners.

6. Only one Commission is inadequate. Regional Commissions must also be constituted to deal with petitions against different category of public men. All persons are to be given the right to file petitions under this act, and restrictions imposed on certain persons to file petitions are unreasonable. P.C. Act has given the right to file petitions by any person in public interest.

7. Powers given to the Commissioner to try and convict persons under *Clause* 20 is to be dropped since there are existing laws to try and to convict persons for the offences mentioned in that Clause. *Clause* 26 will act as a deterrent against bonafide petitioners and should be deleted. Moreover the Commission has no powers to convict the public man even when he is found guilty.

8. The wording of the preamble is to be changed since the wording is as if the legislation is intended to deal with the allegation of corruption instead of dealing with the corrupt man.

9. Therefore the Bill in its form and content require substantial changes. To this extent we disagree with the report of the Select Committee.

Smt. K. R. Gouri	(Sd.)
Shri K. Pankajakshan	(Sd.)
Shri A. K. Sasheendran	(Sd.)
Shri N. A. Mammu Hajee	(Sd.)
Dr. A. Subba Rao	(Sd.)
Shri K. R. Chandramohanan	(Sd.)
Shri C. P. Moosankutty	(Sd.)
Shri E. Padmanabhan	(Sd.)
Shri S. R. Thankaraj	(Sd.)
Shri V. J. Thankappan	(Sd.)
Shri K. Moossakutty	(Sd.)

Trivandrum,

December 7, 1983.

THE KERALA PUBLIC MEN (PREVENTION OF CORRUPTION) BILL, 1983

(As modified by the Select Committee)

(Words sidelined or underlined indicate amendments made by the Committee. Omissions are indicated by asterisks)

A

BILL

to provide for the establishment of an authority to deal effectively with allegations of corruption against public men and for matters connected therewith.

Preamble.—WHEREAS it is expedient to provide for the establishment of an authority to deal effectively with allegations of corruption against public men and to secure administrative probity and for matters connected therewith;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Public Men (Prevention of Corruption) Act, 1983.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Chief Justice" means the Chief Justice of the High Court of Kerala;

(b) "Commission" means a Commission constituted under section 4;

(c) "Commissioner" means a member of the Commission;

(d) "Governor" means the Governor of Kerala;

(e) "Legislative Assembly" means the Legislative Assembly of the State of Kerala;

(f) "Local authority" means a municipal corporation or a municipal council or a township committee or a panchayat;

(g) "political party" means a political party or group which has representation in Parliament or in the Legislative Assembly; or a political party which is treated as a recognised political party in accordance with paragraph 6 of Election Symbols (Reservation and Allotment) Order, 1968;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "public man" means a person who holds or has held in the State the office of—

(i) a Minister or the Chief Minister; or

(ii) a member of the Legislative Assembly; or

(iii) a member or the President of the Travancore Devaswom Board or the Cochin Devaswom Board or a member or the Chairman of the Guruvayoor Devaswom Managing Committee or a member or the Chairman of the Kerala Wakf Board; or

(iv) the Chairman or the Vice-Chairman (by whatever name called) of—

(A) a local authority; or

(B) a Government Company as defined in section 617 of the Companies Act, 1956 (Central Act 1 of 1956); or

(C) a statutory body or Corporation or Board established by or under a statute and owned or controlled by the Government of Kerala, including a co-operative society; or

(D) any other Corporation or Board or Society owned or controlled by the Government of Kerala.

Explanation.—In this clause—

(a) "co-operative society" means a co-operative society registered or deemed to have been registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969);

(b) "society" means a society registered in the State under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 (XII of 1955) or under the Societies Registration Act, 1860 (Central Act 21 of 1860).

(v) a member of a local authority or the syndicate or Executive Committee of a University established by an Act of the State Legislature or a member or Director (by whatever name called) of a statutory body or Corporation or Board referred to in sub-clause (iv); or

(vi) a member of the State Transport Authority or any Regional Transport Authority; or

(vii) the President, Secretary or Treasurer or any other office bearer of a registered trade union;

* * * * *

Explanation.—In this clause, "registered trade union" means a trade union registered under the Trade Unions Act, 1926 (Central Act 16 of 1926); or

(viii) The Chairman or Vice-Chairman or President or Vice-President or Secretary or Treasurer or any other Office bearer of a political party at the district or State level; or

(ix) any person referred to in sub-section (2) of section 3;

(j) "public servant" means a public servant as defined in section 21 of the Indian Penal Code (Central Act 45 of 1860);

(k) "State" means the State of Kerala;

(l) "trade union" means a trade union as defined in the Trade Unions Act, 1926 (Central Act 16 of 1926).

3. *Definition of corruption.*—(1) Whoever being a public man—

(a) accepts or obtains from any person for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering any service or dis-service to any persons, with the Government or any Board, authority, body, Corporation, Company or Society referred to in sub-clauses (iii), (iv), (v) and (vi) of clause (i) of section 2 or with any public man or public servant as such; or

(b) accepts or obtains from any person for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public man or public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public man or public servant, to show favour or disfavour to any person or to render any service or dis-service to any person with the Government or any Board, authority, body, Corporation, Company or Society referred to in sub-clauses (iii), (iv), (v) and (vi) of clause (i) of section 2 or with any public man or public servant as such; or

(c) by corrupt or illegal means or by otherwise abusing his position as a public man obtains for himself or for any other person any valuable thing or pecuniary advantage, is said to commit corruption; or

(d) wilfully does any act in contravention of any provision of any law for the time being in force.

Explanation I.—The word "gratification" means pecuniary gratification and gratification estimable in money.

Explanation II.—The word "law" includes any Ordinance, byelaw, rule, regulation or notification;

Explanation III.—The words "legal remuneration" are not restricted to remuneration which a public man can lawfully demand, but include all remuneration which is lawfully permissible.

Explanation IV.—A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within the expression "a motive or reward for doing".

(2) Any person who abets or conceals or attempts to conceal from detection, the commission of corruption of the nature specified in sub-section (1) by a public man also commits corruption.

4. *Constitution of Commission.*—(1) The Governor shall constitute a Commission consisting of three members to deal effectively with allegations of corruption against public men.

(2) The Governor shall in consultation with the Chief Minister of the State and the Chief Justice, appoint under his hand and seal the members of the Commission.

(3) Two of the persons appointed under sub-section (2) shall be sitting or retired Judges of the Supreme Court or of the High Court (hereinafter referred to as judicial members) and the other member shall be a person who is or has been a Government officer not below the rank of Secretary to Government.

(4) The Governor shall, in consultation with the Chief Minister of the State and the Chief Justice, appoint one of the Judicial Members to be the Chairman of the Commission.

(5) Every matter to be decided by the Commission shall be decided in accordance with the opinion of the majority of the Commissioners.

(6) A Commissioner shall not be a member of Parliament or a member of the Legislature of any State and shall not hold any office of trust or profit (other than the office as Commissioner), or be connected with any organisation the activities of which are likely to result in communal disharmony or hatred or carry on any business, or practise any profession and accordingly before entering upon his office, a person appointed as Commissioner shall,—

(a) if he is a Member of Parliament or of the Legislature of a State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any organisation the activities of which are likely to result in communal disharmony or hatred, sever his connection with that organisation; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practise such profession.

(7) A person who has been a *** member of a political party at any time during the period of five years immediately preceding—

(a) the commencement of this Act, in the case of first appointment after such commencement; or

(b) the date on which the vacancy has arisen, in the case of any subsequent appointment,

shall not be eligible to be appointed as Commissioner.

(7) * * * * * *

5. *Conditions of service of Commissioner.*—(1) A person appointed as Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of seventy years, whichever is earlier.

(2) On ceasing to hold office, a Commissioner shall be ineligible for reappointment as Commissioner or for further appointment either under the Government of Kerala or under any public undertaking.

Explanation.—For the purposes of this sub-section, "public undertaking" means any company in which not less than fifty-one per cent of the paid up share capital is held by the Government of Kerala and includes a statutory corporation or Board constituted by that Government.

(3) Notwithstanding anything contained in sub-section (1), a Commissioner may—

(a) by writing under his hand addressed to the Governor resign his office at any time;

(b) be removed from his office in accordance with the provisions of sub-section (4).

(4) A Commissioner shall not be removed from his office except by an order of the Governor passed after an address by the Legislative Assembly supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of the Legislative Assembly present and voting has been presented to the Governor in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) The procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Commissioner under sub-section (4) shall be such as may be prescribed by an order of the Governor and approved by the Legislative Assembly.

(6) A Commissioner shall have the like status, shall be entitled to the same salary, allowances and pension and shall be subject to the same conditions of service, as a judge of the High Court of Kerala:

Provided that the status, salary, allowances, pension and conditions of service of a sitting or a retired Judge of the Supreme Court appointed as Commissioner shall be such as may be specified by the Governor:

Provided further that the salary, allowances and pension payable to, and other conditions of service of, a Commissioner shall not be varied to his disadvantage after his appointment.

6. *Oath of Office.*—Every person appointed as Commissioner shall, before he enters upon his office, make and subscribe before the Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set out hereunder:—

"I, A. B., having been appointed Commissioner do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will."

7. *Staff of Commission.*—(1) The Commission shall have a Secretary and such other officers and employees as may be prescribed by the Governor in consultation with the Commission to assist the Commission in the exercise of its powers and the discharge of its functions under this Act.

(2) The conditions of service of the Secretary and other officers and employees shall be such as may be prescribed by the Governor in consultation with the Commission.

(3) Appointment of the Secretary and other officers and employees shall be made by the Commission in consultation with the Kerala Public Service Commission.

(4) The rules for reservation of appointments and posts in Government service in favour of the Scheduled Castes, Scheduled Tribes and other backward classes of citizens shall, mutatis mutandis, apply to appointments to be made by the Commission under sub-section (1).

(5) Without prejudice to the provisions of sub-sections (1), (2), (3) and (4), the Commission may, for the purpose of dealing with any particular case or class of cases, secure—

(i) the services of any officer or employee or investigating agency of the Government of Kerala with the concurrence of that Government; or

(ii) the services of any other person or agency.

(6) The terms and conditions of service of the officers, employees, agencies and persons referred to in sub-section (5) shall be such as may be prescribed by the Governor in consultation with the Commission.

(7) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (5) shall be subject to the exclusive administrative control and direction of the Commission.

8. *Petition for initiating proceedings.*—(1) Any person other than a public servant or a service association or a trade union may present a petition to the Commission with an additional copy for service on the opposite party requesting that any allegation of corruption against any public man specified in such petition may be investigated under this Act.

(2) Every petition under sub-section (1) shall be accompanied by an affidavit in support of the allegation contained therein and a treasury receipt evidencing the deposit of a sum of five hundred rupees:

Provided that no such treasury receipt shall be necessary where the petition is presented jointly by not less than ten * * * * members of the Legislative Assembly.

(3) Every petition under sub-section (1) as well as any schedule or annexure thereto shall be verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), for the verification of pleadings.

(4) The person who presents a petition under sub-section (1) or any other person shall not publish or cause to be published the contents of the petition in any manner whatsoever.

(5) Any person who contravenes the provisions of sub-section (4) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

9. *Commission not to initiate proceedings in certain cases.*—The Commission shall not conduct any investigation under this Act,—

(a) if the allegation of corruption mentioned in the petition has been the subject matter of another investigation or inquiry or other proceedings by or before a Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 or any other Commission appointed by the Government; or

(b) if the petition does not comply with the provisions of section 8; or

(c) if the corruption is alleged to have taken place before a period of five years immediately preceding the commencement of this Act; or

(d) if the petition under section 8 has been presented after the expiry of a period of twenty-four months from the date on which the corruption is alleged to have taken place;

(e) in respect of corruption alleged to have taken place within a period of five years immediately preceding the commencement of this Act, if the presentation of the petition is after the expiry of a period of twenty-four months from the date on which the corruption is alleged to have taken place or six months from such commencement, whichever is later.

* * * * *

10. *Preliminary investigation.*—(1) On receipt of a petition under section 8 containing any allegation of corruption against a public man, * *

* * * * *

the Commission shall, in a case not falling under section 9, scrutinise such allegation and shall furnish a copy of the petition * * * * *

* * * to the public man and also give the petitioner * * and the public man concerned an opportunity of being heard in the matter.

(2) The Commission shall call for any relevant information or document in respect of the allegation of corruption from the petitioner or the Government or any other person or authority who or which, in the opinion of the Commission is in possession of such information or document, and thereupon the petitioner or the Government or such other person or authority shall be bound to furnish such information or produce such document.

(3) Every preliminary investigation under this section shall be conducted in private and in camera and in particular the identity of the petitioner, if any, or the public man affected by such investigation shall not be disclosed to the public or the press whether before, during or after such investigation

(4) Save as aforesaid, the procedure for conducting any such investigation shall be such as may be prescribed by the Governor in consultation with the Commission.

11. *Result of preliminary investigation and further action.*—(1) If, after the preliminary investigation under section 10, the Commission is of the opinion that the allegation of corruption is without substance or trivial in nature or that further investigation is not likely to prove useful, *it* shall record a finding to that effect and report to the Government accordingly, stating the reasons for such finding.

(2) The Commission shall, in cases not falling under sub-section (1), proceed to make a detailed investigation in regard to the allegation of corruption.

(3) The Commission shall, subject to the provisions of this Act and of the rules made thereunder, have power to regulate its own procedure including the fixing of the time and place of sitting.

(4) * * * * *

(5) The public man against whom corruption has been alleged and the petitioner, if any, shall have the right to be represented in person or by counsel.

(6) In every detailed investigation under this Act, the Government shall be made a party.

(7) The Commission may, if *it* considers necessary to do so, having regard to the nature and circumstances of the case under investigation, appoint a counsel to assist it on such terms and conditions as may be prescribed.

(8) The Commission may, at any stage, also permit—

(a) any witness, or

(b) any other person

who claims that he is to be represented in person or by counsel to take such part in the proceedings as the Commission may, in the interest of justice, thinks fit.

12. *Reports of Commission.*—(1) The Commission shall, at the end of the detailed investigation, record findings *its* including a finding referred to in sub-section (3) stating the reasons therefor and report the same to the Government with *its* recommendations.

(2) The report of the Commission under sub-section (1) shall, * * * * be communicated to the Government within a period of one year from the commencement of the detailed investigation referred to in sub-section (2) *of* section 11

(3) Where the Commission is of opinion that it is expedient in the interests of justice that the public man against whom corruption has been alleged or any other person concerned with the subject matter of the allegation should be prosecuted for any offence referred to in section 6 of the Criminal Law Amendment Act, 1952 (Central Act 46 of 1952), they shall, if no prosecution for such offence has already been initiated against the public man or other person in any court, record a finding to that effect stating *the* reasons therefor.

(4) Where a finding referred to in sub-section (3) is recorded by the Commission, the Government shall take all necessary steps for the prosecution of the persons concerned.

(5) Where no action is taken by the Government on the recommendation of the Commission within a period of six months from the date of receipt of such recommendation by the Government or where the Commission is not satisfied with the action taken by the Government on *its* recommendation, the Commission shall make a special report thereof to the Governor.

(6) The Commission shall present annually a consolidated report on the performance of *its* functions under this Act to the Governor.

(7) On receipt of a special report under sub-section (5) or the annual report under sub-section (6), the Governor shall cause a copy thereof to be laid, as soon as may be, before the Legislative Assembly.

(8) The Government shall cause every report of the Commission under sub-section (1) to be laid before the Legislative Assembly together with a memorandum of the action taken thereon within a period of six months of the submission of the report to the Government.

13. *Public man to vacate office if directed by Commission.*—(1) Where, after an investigation under this Act, the Commission is satisfied that an allegation against a public man has been substantiated and that such public man should not continue to hold the post held by him, the Commission shall make a declaration to that effect in its report under sub-section (1) of section 12 and thereupon the Government may either accept the declaration or reject it.

(2) If the declaration is not rejected under sub-section (1) within a period of three months from the date of receipt of the report under sub-section (1) of section 12, it shall be deemed to have been accepted by the Government on the expiry of the said period of three months.

(3) If the declaration referred to in sub-section (1) is accepted or is deemed to have been accepted by the Government, the fact of such acceptance or the deemed acceptance shall be intimated to the public man and notwithstanding anything contained in any law, order, notification, rule or contract of appointment, the public man shall, with effect from the date of such intimation,—

(i) if he is the Chief Minister or a Minister or a Member of the Legislative Assembly of the State, resign his office of Chief Minister, Minister or Member of the Legislative Assembly, as the case may be;

(ii) if he is any other person, be deemed to have vacated his office.

14. *Costs.*—(1) The Commission may, in case the allegation is found to be without substance or trivial in nature or is not substantiated, order the petitioner, to pay such amount of costs as may be specified in the order to the public man against whom the allegation has been made or to any other person referred to in sub-section (8) of section 11.

(2) The Commission may order any part of the costs ordered to be paid under sub-section (1) to be paid out of any amount deposited under section 8 and issue a certificate of recovery in respect of the remainder, if any.

(3) Any person in whose favour a certificate is issued under sub-section (2) may apply to the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person against whom a certificate is issued has a place of residence or business for recovery of the amount specified in the certificate and such court shall thereupon execute the certificate, or cause the same to be executed, in the manner and by the same procedure as if it were a decree for the payment of money passed by itself in a suit.

15. *Powers of Commission and Officers.*—(1) The Commission and any officer authorised by the Commission shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) such other matters as may be prescribed.

(2) Each Commissioner or any officer authorised by the Commission in this behalf may enter and search any building or place where the Commission has reason to believe that any books of account or other documents relevant to the subject matter of the enquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom.

(3) The provisions of section 100 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, so far as may be, apply to searches under sub-section (2).

(4) Any proceedings before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860).

16. *Power of Commission to call for special property statements.*—The Commission shall have power to call for a special property statement in the prescribed form from any public man, an allegation against whom is under investigation under this Act.

17. *Statements made to the Commission.*—(1) Subject to the provisions of sub-section (2), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the Government or any public servant, whether imposed by any enactment or by any rule or law, shall apply to the disclosure of information for the purpose of any investigation under this Act and the Government or any public servant shall not be entitled, in relation to any such investigation, to any such privilege in respect of production of documents or giving evidence as is allowed by any enactment or by any rule of law in legal proceedings.

(2) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document, as might prejudice the security or defence or international relations of India (including India's relation with the Government of any other country or with any international organisation), * * * * * * * * * * * * *and for the purpose of this sub-section a certificate issued by a Secretary to * * * * * * * * * the Government of India * * * * * certifying that any information, answer or portion of a document is of the nature specified in this sub-section shall be binding and conclusive.

(3) Subject to the provisions of sub-section (1), no person shall be compelled for the purpose of investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a court.

(4) No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(a) is made in reply to a question he is required by the Commission to answer; or

(b) is relevant to the subject matter of the investigation.

18. *Secrecy of information.*—Any information obtained by the Commission or members of its staff or any investigation agency in the course of, or for the purpose of any investigation under this Act and any evidence recorded or collected in connection with such investigation shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1 of 1872), no court shall be entitled to compel the Commission or any Commissioner or any member of its staff or any investigation agency to give evidence relating to such information or produce the evidence so recorded or collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars—

(a) for the purpose of the investigation or in any report to be made thereon or for any action or proceedings to be taken on such report; or

(b) for the purposes of any proceedings for an offence under the Official Secrets Act, 1923 (Central Act 19 of 1923) or any offence of giving or fabricating false evidence under the Indian Penal Code (Central Act 45 of 1860) or for purposes of any proceeding under section 27; or

(c) for such other purposes as may be prescribed.

(3) No person shall publish any proceeding relating to a preliminary investigation under section 10 which is pending before the Commission nor shall any person publish such proceeding after such investigation is completed.

(4) Whoever contravenes the provisions of sub-section (3) shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

(5) Nothing in sub-sections (3) and (4) shall apply to the publication of any report laid before the Legislative Assembly.

19. *Protection of action taken under the Act.*—(1) No suit, prosecution or other legal proceeding shall lie against the Commission or a Commissioner or against any officer, employee, agency or person referred to in section 7 in respect of anything which is in good faith done or intended to be done under this Act.

(2) No proceeding of the Commission shall be held invalid for want of form and, except on the ground of jurisdiction, no proceeding or decision of the Commission shall be liable to be challenged, reviewed or called in question in any court.

20. *Power of Commission to try certain offences summarily.*—(1) If, at any stage of a proceeding before the Commission, it appears to them that any person appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, the Commission may, if satisfied that it is necessary and expedient in the interests of justice that the person should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), and sentence him to imprisonment for a term which shall not be less than three months but which may extend to one year, and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

(2) In every case tried under this section, the Commission shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

(3) Any person convicted on a trial held under this section may appeal to the High Court and the provisions of Chapter XXIX of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, so far as may be, apply to appeals under this section and the High Court may alter or reverse the finding or reduce or reverse the sentence appealed against.

(4) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(5) Words and expressions used in this section and not defined in this Act shall have the same meaning as in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

21. *Power to delegate.*—The Commission may, by general or special order in writing, direct that any powers conferred or duties imposed on it by or under this Act (except the power to make investigation or to report to the Government) may also be exercised or discharged by such of the officers, employees or agencies referred to in section 7, as may be specified in the order.

22. *Bar to inquiries.*—No formal or open inquiry into any alleged Commission of corruption by any public man in respect of which a petition has been presented under section 8 * * * * shall be made at the instance of the Government either under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952) or by any other order or resolution of the Government, but nothing herein contained shall be construed as affecting any right or power of any other person or authority under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or under any other law for the time being in force, or as affecting the constitution of, or the continuance of the functioning of or exercise of powers by, any committee or Commission of Inquiry appointed before the commencement of this Act.

23. *Disposal of deposit.*—The Commission shall at the end of the investigation make such orders in respect of the sum deposited by any petitioner under section 8 including orders for the forfeiture of the whole or any portion of such sum as having regard to the circumstances of the case it thinks fit.

24. *Pendency of case not to bar proceedings under this Act.*—The pendency of any civil or criminal case in the High Court or any court subordinate thereto in respect of any allegation of corruption shall not bar the scrutiny, investigation or inquiry of or into that allegation under this Act, and no such scrutiny, investigation or inquiry shall be deemed to amount to contempt of such court.

25. *Intentional insult, etc., to the Commission.*—(1) Whoever intentionally offers any insult, or causes any interruption, to the Commission while they are conducting any investigation under this Act, shall be punishable with simple imprisonment for a term which may extend to two years, or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Commission into disrepute, shall be punishable with simple imprisonment for a term which may extend to two years, or with fine, or with both.

(3) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Commission.

26. *False allegations of corruption to be punishable.*—(1) Whoever makes any allegation of corruption against a public man with malicious motive or with intent to cause injury to him knowing that there is no just or lawful ground for

making such allegation, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) No court shall take cognisance of any offence under sub-section (1) except with the previous sanction of the Commission.

29. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power; such rules may provide for—

(a) the form in which petitions may be made under section 8;

(b) the conditions of service of the Commissioners;

(c) the powers of civil court which may be vested in the Commission;

(d) the deposit, forfeiture, refund or disposal of sums referred to in section 8;

(e) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions which appear to them to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

Secretariat of the Kerala Legislature,

Trivandrum,

December 12, 1983.

DR. R. PRASANNAN,

Secretary.